

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
CIVIL ACTION NO.: 5:22-CV-00068-BO

YOLANDA IRVING, individually and as the)
natural parent and guardian of JALEN IRVING,)
JUWAN HARRINGTON, CYDNEEA)
HARRINGTON, KENYA WALTON,)
individually and as the natural parent and)
guardian of ROBERT WHITLEY, ZIYEL)
WHITLEY, DYAMOND WHITLEY,)
KAMISHA WHITLEY, and NANETTA)
GRANT as the natural parent and guardian of)
ZIQUIS GRANT,)

Plaintiffs,

vs.

THE CITY OF RALEIGH, Officer OMAR I.)
ABDULLAH, Sergeant WILLIAM ROLFE,)
Officer RISHAR PIERRE MONROE, Officer)
JULIEN DAVID RATTELADE, and Officer)
MEGHAN CAROLINE GAY, and JOHN and)
JANE DOE Officers 1-10, in their individual)
capacities,)

Defendants.

**DEFENDANTS RISHAR PIERRE
MONROE, JULIEN DAVID
RATTELADE AND MEGHAN
CAROLINE GAY'S PARTIAL MOTION
TO DISMISS**

(Fed. R. Civ. P. 12(b)(6))

Defendants Rishar Pierre Monroe, Julien David Rattelade, and Meghan Caroline Gay (hereafter "Defendants"), each in their individual capacity, respectfully move the Court for an order dismissing one of Plaintiffs' claims against them pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.¹ More specifically, Plaintiffs' Fifth Claim, alleging a "civil conspiracy" should be dismissed for the following reason, among others:

- Plaintiffs' civil conspiracy claim is barred by the intracorporate conspiracy doctrine. A conspiracy requires a plurality of actors and no such plurality exists when all of the Defendants are officers of the same police department.

¹ Filing a partial motion to dismiss suspends the time for filing of the answer for these Defendants. *Johnson v. Pope*, No. 7:13-CV-78-BO, 2013 U.S. Dist. LEXIS 6500752 (E.D.N.C. Dec. 11, 2013) ("filing a partial motion to dismiss will suspend the time to answer those claims that are not subject to the motion.").

Pursuant to Local Civil Rule 7.1, Defendants submit a memorandum of law in support of this partial motion to dismiss. For the sake of judicial economy, Defendants' memorandum incorporates, by reference, the background, allegations, and legal authority set forth in a memorandum supporting a companion (amended) partial motion to dismiss filed by co-defendant, Sgt. William Rolfe (DE 30, DE 31).

Wherefore, based on the legal authority set forth in DE 31, Defendants Rishar Pierre Monroe, Julien David Rattelade, and Meghan Caroline Gay seek an order GRANTING their partial motion to dismiss DISMISSING WITH PREJUDICE Plaintiffs' "civil conspiracy" claim.

This the 29th day of April, 2022.

By: /s/ Samuel G. Thompson, Jr.
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CERTIFICATE OF SERVICE

I certify that on April 29, 2022, I electronically filed the foregoing **DEFENDANTS RISHAR PIERRE MONROE, JULIEN DAVID RATTELADE AND MEGHAN CAROLINE GAY'S PARTIAL MOTION TO DISMISS** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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